



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

July 22, 1970

Honorable John M. McCormack
Speaker of the House of
Representatives

Dear Mr. Speaker:

I am transmitting for the consideration of the Congress proposed legislation "To amend title 5, United States Code, to direct the President to adjust the rates for the statutory pay systems, to establish an Advisory Committee on Federal Salaries, and for other purposes." A draft bill, a section analysis of its provisions, and a statement of purpose and justification are enclosed.

In presenting his postal reform legislation, the President proposed new procedures for the adjustment of the salaries of postal workers. It is now important that an improved continuing procedure be established for adjusting the salaries of Federal employees under other statutory salary systems. These employees must be assured that their pay rates will be kept up to date in relationship to salaries paid in the private sector.

This proposed legislation is needed to reduce the time lag between salary surveys and schedule adjustments and to make other improvements in the procedure for applying the pay comparability policy adopted by Congress in 1962. It affords an appropriate role to employee organizations, the President, and the Congress. Employee organizations would be consulted by an agent of the President on the coverage of the Bureau of Labor Statistics survey, the salary comparison process and the adjustments required to achieve comparability with private enterprise salaries. An impartial Advisory Committee on Federal Salaries would review the findings of the President's agent and consider the views of employee organizations with respect to the analysis and pay proposals in the agent's report. This Advisory Committee would report to the President.

After reviewing the reports and recommendations of his agent and of the Advisory Committee, the President would make the appropriate salary adjustments and would report his actions to the Congress. If in any year the President should find it inappropriate to make the adjustments because of a national emergency or economic conditions affecting the general welfare, he would have to present an alternative plan to the Congress before September 1 which would become effective on October 1 unless either House disapproved on or before September 30.

The draft bill contemplates that the first two salary adjustments will be effective January 1, 1971 and January 1, 1972. Subsequently, these effective dates will be October 1 of each year, in order to get into better phase with the budget cycle.

Enactment of this draft bill will build on the precedents set in 1967 and in 1970 (1) by reducing the time lag and (2) by providing for a review of findings by an impartial group. It is necessary to implement properly the sound pay-fixing principles established by Congress in 1962. We urge that it be given prompt and favorable consideration.

The Office of Management and Budget advises that the enactment of this draft bill would be in accord with the program of the Administration.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,

(Signed) Robert E. Hampton

Robert E. Hampton
Chairman

A B I L L

To amend title 5, United States Code, to direct the President to adjust the rates for the statutory pay systems, to establish an Advisory Committee on Federal Salaries, and for other purposes.

Sec. 1. This Act may be cited as the "Federal Salary Comparability Act of 1970".

Sec. 2. (a) Title 5, United States Code, is amended by striking out sections 5301 and 5302 and inserting in place thereof:

"§5301. Policy

"(a) It is the policy of Congress that Federal pay fixing for employees be based on the principles that--

"(1) there be equal pay for substantially equal work, and pay distinctions be maintained in keeping with work and performance distinctions; and

"(2) Federal pay rates be comparable with private enterprise pay rates for the same levels of work.

"(b) Pay levels for the following statutory pay systems shall be interrelated and the pay rates shall be set and adjusted in accordance with the principles set forth in subsection (a) of this section:

"(1) Section 5332 of this title, relating to the General Schedule.

"(2) Sections 867 and 870 of title 22, relating to the Foreign Service of the United States.

"(3) Section 4107 of title 38, relating to the Department of Medicine and Surgery, Veterans' Administration.

"§5302. Annual adjustments and reports

"(a) In order to carry out the policy stated in section 5301 of this title, the President shall--

"(1) direct such agent as he considers appropriate to prepare and submit to him annually, after consulting with employee organizations as provided in subsection (b) of this section, a report which compares the rates of pay fixed for employees in the pay systems referred to by section 5301(b) of this title with the rates of pay for the same levels of work in private enterprise as determined on the basis of appropriate annual surveys conducted by the Bureau of Labor Statistics and which makes recommendations for appropriate adjustments in rates of pay;

"(2) after considering the report of his agent and the recommendations thereon of the Advisory Committee on Federal Salaries established by section 5302a of this title, and on or before October 1 of each year, adjust the rates of pay of those pay systems effective the first day of the first applicable pay period beginning on or after October 1; and

"(3) transmit to Congress a report of the adjustment made each year under paragraph (2) of this subsection with a copy of his agent's report and recommendations thereon of the Advisory Committee on Federal Salaries.

"(b)(1) If the President for reasons of national emergency or economic conditions affecting the general welfare should in any year consider it inappropriate to make the adjustment required by subsection (a) of this section, he shall prepare and transmit to the Congress before September 1 of that year such alternative plan as he considers appropriate, together with the reasons therefor.

"(2) The President's alternative plan shall become effective on October 1 unless either House on or before September 30 passes a resolution stating in substance that that House does not favor the President's alternative plan. If either House passes such resolution the President shall take the actions required by paragraphs (a)(2) and (3) of this section.

"(c) In carrying out its functions under subsection (a)(1) of this section, the President's agent shall--

"(1) consult with employee organizations regarding the coverage of the Bureau of Labor Statistics survey, the salary comparison process, and the adjustments in Federal salaries required to achieve comparability with private enterprise salaries; and

"(2) include the views of the employee organizations in its report to the President.

"(d) The adjustments made by the President under this section--

"(1) have the force and effect of statute; and

"(2) shall be printed (A) in the Statutes at Large in the same volume as public laws and (B) in the Federal Register and included in the Code of Federal Regulations.

"(e) An increase in pay under this section is not an equivalent increase in pay within the meaning of section 5335 of this title.

"(f) Any rate of pay under this section shall be initially adjusted, effective on the effective date of the rate of pay, under conversion rules prescribed by the President or by such agencies as the President may designate.

"(g) This section does not impair any authority pursuant to which rates of pay may be fixed by administrative action.

"§5302a. Advisory Committee on Federal Salaries

"(a) There is established an Advisory Committee on Federal Salaries which is an independent establishment as defined in section 104 of this title and shall be composed of three members, not otherwise employed in the Federal Government, to be appointed by the President. The President shall designate one of the members as Chairman. Each appointment shall be for a term of 6 years, except that one of the original members shall be appointed for a term of 2 years, and another for a term of 4 years. A member appointed to fill a vacancy occurring before the end of the term of his predecessor shall serve for the remainder of that term. When the term of a member ends, he may continue to serve until his successor is appointed and has qualified.

"(b) To assist the President in carrying out the policy stated by section 5301 of this title, the Committee shall--

"(1) review the annual report of the President's agent;

"(2) consider such further views and recommendations with respect to the analysis and pay proposals contained in the annual report of the President's agent as may be presented to it in writing by Federal employee organizations, the President's agent, other Federal officials, and such experts as it may consult; and

"(3) report its findings and recommendations to the President.

"(c)(1) The Committee may secure from any Executive agency or military department information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions;

and each such Executive agency or military department shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Committee on request by the Committee.

"(2) On request of the Committee the head of any Executive agency or military department may detail, on a reimbursable basis, any of its personnel to assist the Committee in carrying out its function.

"(3) The Administrator of General Services shall provide administrative support services for the Committee on a reimbursable basis.

"(4) The Committee may use the United States mails in the same manner and upon the same conditions as other Executive agencies.

"(5) The Committee may obtain services of experts or consultants in accordance with section 3109 of this title but at rates for individuals not to exceed that of GS-18.

"(d) Each member of the Committee is entitled to pay at the daily equivalent of level IV of the Executive Schedule for each day he is engaged on work of the Committee, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703(b) of this title.

"(e) The Committee may appoint and fix the pay of such personnel as may be necessary to carry out its functions."

(b) The analysis of chapter 53 of title 5, United States Code, is amended by striking out item 5302 and inserting in place thereof:

"5302. Annual adjustments and reports.

"5302a. Advisory Committee on Federal Salaries."

Sec. 3. The President may make the initial adjustment required by section 5302(a)(2) of title 5, United States Code, as amended by this Act, without regard to the provisions relating to the Advisory Committee on Federal Salaries. This adjustment and the adjustment based on the 1971 Bureau of Labor Statistics survey shall be made before January 1, 1971, and January 1, 1972, respectively, and shall become effective the first day of the first applicable pay period that begins on or after those dates.

SECTION ANALYSIS

To accompany a draft bill to amend title 5, United States Code, to direct the President to adjust the rates for the statutory pay systems, to establish an Advisory Committee on Federal salaries, and for other purposes.

The first section of the draft bill provides that the act may be cited as the "Federal Salary Comparability Act of 1970."

Section 2 of the draft bill amends title 5, United States Code, by revising and restating sections 5301 and 5302, relating to the congressional policy for fixing pay rates for Federal statutory schedules, and by adding a new section 5302a, creating an Advisory Committee on Federal Salaries.

The revised section 5301 continues the policy of the Congress that rates of pay for Federal statutory schedules shall be based on the principles that there shall be equal pay for substantially equal work, that pay distinctions shall be maintained in keeping with work and performance distinctions, and that Federal pay rates shall be comparable with private enterprise pay rates for the same levels of work. The pay systems covered by these principles are identified as those for the General Schedule, the Foreign Service, and the Department of Medicine and Surgery of the Veterans Administration.

The revised section 5302 sets forth the procedure for carrying out the policy expressed in section 5301. The major change from existing law is the provision directing the President to make the annual adjustments by October 1 of each year. Similar authority on a temporary basis was, however, given to the President by the pay acts of 1967 and 1970.

Subsection (a) of the revised section 5302 requires that an agent of the President, after consulting with employee organizations, shall make an annual report to the President comparing Federal statutory salaries with private enterprise rates for the same levels of work as reflected in appropriate Bureau of Labor Statistics surveys and recommending appropriate adjustments in Federal salary rates. After considering the report of his agent and the recommendations thereon of an impartial Advisory Committee on Federal Salaries, the President would be required before October 1 of each year to adjust rates of the Federal statutory schedules. These adjustments would be effective on the first day of the first applicable pay period beginning on or after that date. Under existing law, the President makes recommendations to the Congress and the adjustments must be made through the regular legislative process.

Action by the President under revised section 5302 is mandatory. Under subsection (b) in any year that he determines it inappropriate to make the adjustment required by the law because of national emergency or economic conditions affecting the general welfare, he must prepare and transmit to Congress before September 1 in that year such alternative plan as he deems appropriate, and if before September 30 neither House has disapproved, the President's alternative plan shall become effective on October 1. Should either House disapprove, however, the President would have to make the adjustment required by section 5302, subsection (a)(2), of this bill.

By including specific dates, the provisions in subsections (a) and (b) of the revised section 5302 ensure that actions will be taken and become effective at a time certain and that there will be no retroactive adjustments.

Revised section 5302(c) requires that the President's agent in carrying out its role under subsection (a) must consult with employee organizations regarding the coverage of the BLS survey, the salary comparison process, and the adjustments in salaries required to achieve comparability with private enterprise salaries and must include the views of the employee organizations in its report to the President.

Revised section 5302(d) provides that the adjustments made by the President have the force and effect of statute and shall be printed in the Statutes at Large and in the Federal Register and included in the Code of Federal Regulations.

Under the provisions in revised section 5302(e), adjustments in pay rates under this authority would not be equivalent increases for purposes of computing waiting periods for step-increases under the General Schedule.

Revised section 5302(f) authorizes the President, or such agencies as he may designate, to prescribe conversion rules for making pay adjustments.

Revised section 5302(g) provides that other provisions in this section will not impair the authority of agencies to fix rates of pay by administrative action.

The new section 5302(a) of title 5, United States Code, establishes an Advisory Committee on Federal Salaries and prescribes its functions.

Subsection (a) of that section provides that the Committee shall be an independent establishment composed of three members appointed by the President from outside the Federal Government. The Chairman will be designated by the President from among the members. Except for initial appointments, members will serve six-year staggered terms.

Subsection (b) requires that the Committee shall (1) review the annual report of the President's agent; (2) consider such further views and recommendations with respect to the analysis and pay proposals contained in the annual report of the President's agent as may be presented to it in writing by Federal employee organizations, the President's agent, other Federal officials, and such experts as it may consult; and (3) report its findings and recommendations to the President.

Subsections (c)-(e) contain customary provisions for administration of a Committee of this type, including authority for the employment of experts and consultants under 5 U.S.C. 3109 and of such other personnel as necessary to carry out its functions. It also provides that each member of the Committee will receive the daily equivalent of the rate for Executive Schedule level IV for each day he is engaged on work of the Committee and will receive travel expenses, including a per diem allowance, under 5 U.S.C. 5703(b).

Section 2(b) of this draft bill makes conforming changes in the analysis of chapter 53 of title 5, United States Code.

Section 3 provides that the President may make the initial adjustment required by section 5302(a)(2) of title 5, United States Code, as revised by this draft bill, without regard to the provisions relating to the Advisory Committee on Federal Salaries. This authority would be used only if the date of enactment of the legislation should be so near the date on which the President would be required to make the adjustment that it would not be feasible to establish the Committee and allow time for it to become operational. This section also fixes the beginning of the first pay period on or after January 1 as the effective date for the adjustments in 1971 and 1972. In future years the adjustments would be effective in October.

STATEMENT OF PURPOSE AND JUSTIFICATION

To accompany a draft bill to amend title 5, United States Code, to direct the President to adjust the rates for the statutory pay systems, to establish an Advisory Committee on Federal Salaries, and for other purposes.

The purpose of this draft bill is to provide a continuing improved procedure for adjusting salaries for General Schedule employees, Foreign Service employees, and doctors, dentists, and nurses in the Department of Medicine and Surgery of the Veterans Administration. This legislation is necessary to properly implement the policy adopted by Congress in 1962 for relating the rates in these schedules to salaries paid for similar work levels in the private sector.

As stated in section 5301 of title 5, United States Code, the policy of Congress is that Federal pay fixing be based on the principles that --

- (1) there be equal pay for substantially equal work, and pay distinctions be maintained in keeping with work and performance distinctions; and
- (2) Federal pay rates be comparable with private enterprise pay rates for the same levels of work.

This draft bill is designed to reduce the time lag between salary surveys and schedule adjustments and to make other improvements in the procedure for applying the pay comparability principle to the adjustment of salaries for these Federal career employees.

Enactment of the salary review and adjustment procedures in this draft bill would afford an appropriate role to employee organizations, the President, and Congress. Employee organizations would be consulted regarding the coverage of the Bureau of Labor Statistics survey, the salary comparison process, and the adjustments in Federal salaries required to achieve comparability with private enterprise salaries.

In addition, employee organizations would be afforded the opportunity to have their views and recommendations with respect to the annual report of the President's agent considered by an impartial body. The proposed legislation would establish an Advisory Committee on Federal Salaries composed of three members appointed by the President from outside the Government service for six-year staggered terms. The Advisory Committee would review the annual report of the President's agent and give thorough consideration to such further views as might be presented with respect to the analysis and pay proposals in that report by unions, professional organizations, and other Federal officials. Upon completion of its review, the Committee would report to the President.

This proposal would vest in the President the responsibility for adjusting statutory schedules each year in accordance with policies established by law. Congress would continue to deal with changes in policy by the usual legislative process.

By giving the authority to the President, action can be completed in a much shorter time following the comparison of Federal and private enterprise salaries. When the President arrived at a decision on what adjustment was needed to raise Federal salaries to comparability with private enterprise rates, that adjustment could be put into effect in a timely manner. Now the President's recommendations must be sent to Congress where the necessary legislative action generally takes a minimum of two or three months and sometimes a much longer period. Especially in times when salaries in the private sector are increasing rapidly, the Federal employee should not have to wait for the adjustment to which he is entitled.

The draft bill fixes a date on or before which the President must adjust the salaries each year. If for reasons of national emergency or economic conditions affecting the general welfare the President should consider it inappropriate in any year to make the adjustment required by law, he would have to prepare and transmit to Congress in advance his alternative plan, and if neither House of Congress disapproved on or before September 30, the plan proposed by the President would become effective on October 1.

The draft bill specifies an October effective date for the adjustments. An exception is made, however, for the first two adjustments. Section 3 of the bill specifies that these adjustments will be effective in January 1971 and January 1972, respectively. The October date is introduced so that the survey schedule may be adjusted to better accommodate to the budget cycle. The time lag between the survey and the effective date of the adjustment would be unchanged. The survey would be made earlier and the adjustment would be made earlier. With the present survey schedule and a January adjustment, it is necessary to seek a supplemental appropriation not only for the current year but also for the next fiscal year.

Federal salary rates must be adequate to enable the Government to employ persons well qualified to conduct its programs; they must be fair to Federal employees and they must be fair to the taxpayer.

Salaries fixed in accordance with the principles established in 1962 meet these objectives. This draft bill reaffirms the established principles and provides improved procedures for carrying them out.

The achievement of true comparability dictates that the annual adjustments be made on a timely basis. The draft bill assures that this will be done by requiring that the President make the adjustments by a certain date.

Congress has established the policies. Congress can by this proposed legislation establish the needed authorizations for the continuing administration of the program. As with any other program administered by the Executive Branch, Congress will oversee the work and consider and enact legislation as needed to change it.